

# CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 023

June 23, 1958

## NONRESIDENT ESTATES: TAX CREDITS

### Syllabus:

Credit for taxes paid another state is allowable to nonresident estates.

Domicillary probate was had in California with ancillary proceedings in Iowa, a farm being located there. It is admitted that the estate is to be considered a California resident. Iowa is willing to grant a credit for taxes paid to California provided California similarly grants a credit to estates which are considered residents of other states, i.e., nonresidents of California.

Advice is requested as to whether the provisions of section 18002 of the Personal Income Tax Law apply to nonresident estates.

Because estates are not included in the general definition of residents and nonresidents contained in sections 17014 and 17015, the purpose and intent of section 18003 is questioned. Section 18003 is specifically limited in its scope to the purposes of the credit provisions. Being specific, it takes precedence for these purposes over the general definitions of residents and nonresidents.

Referring further to the wording of section 18003, nothing is there contained to indicate any limitation to a definition of a California resident estate. The section provides that an estate is to be considered a resident of "the state" which taxes its income in a certain way. There is no reference to the State of California as such, nor any reference or limitation to section 18001 relating to credits for residents of this State. The section refers to "article"; the obvious inference being that it means the entire article. It seems clear from the mere wording of the statute that an estate is to be considered a nonresident of California and a resident of another state if such other state taxes its income irrespective of source. Being so considered, section 18002 relating to nonresident credits clearly applies.

This construction and intent is further borne out in the illustration contained in Regulation 17978-79 which states:

"Thus, if an estate or trust is taxable under the law on income from sources both within and without the State, it is a resident of California. If, however, it is taxable only on income from sources within this State, it is a nonresident."  
(Underlining added.)

It follows that estates under the proper circumstances may be considered as nonresidents and as such entitled to the tax credits provided for nonresidents.

